

BakerHostetler

Baker&Hostetler LLP

45 Rockefeller Plaza
New York, NY 10111

T 212.589.4200
F 212.589.4201
www.bakerlaw.com

Stacey A. Bell
direct dial: 212.589.4632
sbell@bakerlaw.com

November 15, 2018

VIA ECF AND EMAIL

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 723
New York, New York 10004-1408

Re: *Securities Investor Protection Corporation v. Bernard L. Madoff Investment Securities LLC*, Adv. Pro. No. 08-01789 (SMB)

Dear Judge Bernstein:

We are counsel to Irving H. Picard, trustee (the “Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the chapter 7 estate of Bernard L. Madoff under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* We write in reference to the October 31, 2018 hearing on the Trustee’s *Motion for Limited Additional Discovery Based on Prior Orders Authorizing Deposition of Bernard L. Madoff* (the “Motion”). See ECF No. 18015.

As the parties await decision on the Motion, on November 8, 2018, Chaitman LLP noticed a subpoena for the deposition testimony and certain documents from a former BLMIS employee, Walter T. Tiletnick, in 69 good faith actions (the “Tiletnick Subpoena”).¹ The Tiletnick Subpoena is procedurally improper in 40 of the 69 good faith actions where fact discovery is closed. Only 29 of those 69 cases have open fact discovery under the Chaitman discovery stipulation, dated August 10, 2017. See ECF No. 16494. Chaitman LLP has not sought to reopen discovery pursuant to the Madoff Deposition Orders or Federal Rule of Civil Procedure 16 in connection with the Tiletnick Subpoena.

The Tiletnick Subpoena is one of dozens sought by Chaitman LLP in connection with the good faith actions. This subpoena follows 27 others issued by Chaitman LLP, seeking

¹ A copy of the Notice of Subpoena to Walter T. Tiletnick, including a list of the 69 cases in which it was served (Schedule A), is included with this letter as Exhibit A.

deposition testimony from 10 former BLMIS proprietary traders on March 15, 2017 and deposition testimony from 17 additional BLMIS traders on September 5, 2017.

Chaitman LLP should not be able to seek additional discovery in cases in which fact discovery is closed while at the same time argue that the Trustee should be denied from doing the same. In light of the service of the Tiletnick Subpoena in cases where fact discovery is closed, the other subpoenas served by Chaitman LLP, and the Trustee's Motion, the Trustee respectfully requests that the Court permit the pending limited discovery sought by the parties.

We thank Your Honor for consideration of these matters.

Respectfully submitted,

/s/ Stacey A. Bell

Stacey A. Bell
Partner

cc: Helen Davis Chaitman, Esq.
Carole Neville, Esq.
Peter S. Partee, Sr. & Robert A. Rich, Esq.
Andrew B. Kratenstein, Esq.